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Thence, southeasterly with the meanders of the Divide approximately 155 chains to the junction with the Fannin-Union County line, in lot 323.

Thence, southerly with the meanders of the Divide, approximately 380 chains to the junction with the Lumpkin-Union County line, in lot 280.

Thence, southwesterly with the meanders of the Blue Ridge Divide, approximately 70 chains to the Hawk Mountain triangulation station, the point of beginning.

Warning is hereby given to all persons not to hunt, catch, trap, wilfully disturb, or kill any kind of game animal, game or non-game bird, or fish, or to take the eggs of any such bird, on any lands herein designated or in or on the waters thereof, except under such general rules and regulations as may be prescribed from time to time by the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this sixth day of June in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

[No. 2287]

[F. R. Doc. 38-1617; Filed, June 8, 1938; 11:32 a. m.]

#### EXECUTIVE ORDER

FURTHER MODIFICATION OF EXECUTIVE ORDER NO. 7709-A OF SEPTEMBER 16, 1937, ABOLISHING THE NATIONAL EMERGENCY COUNCIL

By virtue of and pursuant to the authority vested in me under the Emergency Relief Appropriation Act of 1935 (49 Stat. 115), and the Emergency Relief Appropriation Act of 1937 (50 Stat. 352), and otherwise, Executive Order No. 7709-A of September 16, 1937, as modified by Executive Order No. 7776 of December 27, 1937,<sup>1</sup> abolishing the National Emergency Council, is hereby further modified so as to extend the date for the abolishment of the said National Emergency Council and for the transfer of its funds, records and property, to June 30, 1939, unless the said Council shall be sooner abolished by order of the President.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

June 6, 1938.

[No. 7906]

[F. R. Doc. 38-1604; Filed, June 7, 1938; 2:41 p. m.]

#### EXECUTIVE ORDER

ESTABLISHING THE BACK BAY MIGRATORY WATERFOWL REFUGE

Virginia

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands and waters acquired or to be acquired by the United States within the following-described area, in Princess Anne County, Virginia, be, and they are hereby, reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture, as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the area described shall become part of the

<sup>1</sup> 2 F. R. 2195, 3437 (D.I.).

refuge hereby established upon acquisition of title thereto or lease thereof by the United States:

Beginning at a point S.  $34^{\circ}02'$  E., 35.18 chains, from U. S. C. & G. S. Triangulation Station "Club", and about one-half mile south of the Little Island Coast Guard Station, on the Atlantic Ocean shore, marked with a U. S. Biological Survey standard concrete post;

Thence along the Atlantic Ocean shore, with the meanders thereof,

S.  $23^{\circ}58'$  E., 36.61 chains;  
S.  $18^{\circ}50'$  E., 10.24 chains;  
S.  $24^{\circ}52'$  E., 10.24 chains;  
S.  $24^{\circ}07'$  E., 10.57 chains;  
S.  $25^{\circ}15'$  E., 10.43 chains;  
S.  $24^{\circ}59'$  E., 11.61 chains;  
S.  $24^{\circ}32'$  E., 24.70 chains;  
S.  $24^{\circ}01'$  E., 11.15 chains;  
S.  $22^{\circ}26'$  E., 11.64 chains;  
S.  $20^{\circ}07'$  E., 14.49 chains;  
S.  $22^{\circ}15'$  E., 23.54 chains;  
S.  $19^{\circ}20'$  E., 12.11 chains;  
S.  $22^{\circ}37'$  E., 23.71 chains;  
S.  $22^{\circ}51'$  E., 22.14 chains;  
S.  $18^{\circ}44'$  E., 10.62 chains;  
S.  $24^{\circ}19'$  E., 11.05 chains;  
S.  $17^{\circ}52'$  E., 10.90 chains;  
S.  $19^{\circ}22'$  E., 11.05 chains;  
S.  $17^{\circ}56'$  E., 10.68 chains;  
S.  $14^{\circ}40'$  E., 22.66 chains;  
S.  $19^{\circ}57'$  E., 12.19 chains;  
S.  $17^{\circ}02'$  E., 9.79 chains;  
S.  $20^{\circ}26'$  E., 7.51 chains, to a point;

Thence inland,

S.  $87^{\circ}59'$  W., 97.21 chains, to a point on the east shore of Sand Bay;

Thence in Sand Bay,

West, to a point 22.73 chains east of the eastern edge of the Ragged Islands;

Southerly, with a line parallel to, and easterly 22.73 chains distant from, the eastern edge of the Ragged Islands;

West, 22.73 chains, to the southernmost point of the Ragged Islands;

Thence in Back Bay,

Northwesterly, approximately 190.00 chains, to the southwestern extremity of Haul Over Island at Rocky Point;

Thence in Red Head Bay,

Northeasterly, approximately 16.00 chains, to the northwestern extremity of Haul Over Island, near North Point on said island;

Northeasterly, approximately 78.00 chains, to Heaven Point on the Ragged Islands;

Northwesterly, approximately 42.00 chains, to the southwestern extremity of a marshy island lying southwest of Long Island, and immediately north of Little Narrows;

Northerly, approximately 37.00 chains, to a point on the western edge of a marshy island lying west of Long Island, and east of Great Narrows;

Thence across Great Narrows,

Westerly, approximately 23.00 chains to a point on the eastern edge of a

marshy island bounded by Great Cove, Great Narrows, Red Head Bay, and Long Point Creek;

Thence along the eastern edge of said island with the meanders thereof,

S.  $34^{\circ}47'$  W., 3.43 chains;  
S.  $13^{\circ}21'$  E., 2.80 chains;  
S.  $12^{\circ}59'$  W., 2.70 chains;  
S.  $6^{\circ}45'$  E., 3.80 chains;  
S.  $27^{\circ}28'$  W., 4.00 chains;  
S.  $2^{\circ}26'$  E., 2.73 chains;  
S.  $24^{\circ}00'$  W., 1.12 chains;  
S.  $41^{\circ}31'$  E., 1.88 chains;  
S.  $56^{\circ}11'$  W., 1.44 chains;  
S.  $30^{\circ}42'$  W., 3.09 chains;  
S.  $56^{\circ}50'$  W., 2.90 chains, to a point on the southeastern extremity of said island;

Thence in Red Head Bay,

Westerly, approximately 34.00 chains, to the Southwestern extremity of Long Point Island;

Northwesterly, approximately 43.00 chains, to a point on East Head Bay Point, at the entrance to Head Bay Cove;

Thence across Head Bay Cove,

Northwesterly, approximately 11.00 chains, to a point on West Head Bay Point;

Thence across marsh,

N.  $80^{\circ}35'$  W., 43.24 chains, to a point in the line between marsh and fast land;

Thence between marsh and fast land,

N.  $23^{\circ}17'$  E., 11.16 chains;  
N.  $16^{\circ}29'$  W., 11.90 chains;  
N.  $1^{\circ}57'$  W., 2.35 chains;  
N.  $12^{\circ}58'$  E., 6.95 chains;  
N.  $2^{\circ}04'$  E., 2.05 chains;  
N.  $25^{\circ}44'$  W., 2.47 chains;  
N.  $7^{\circ}38'$  E., 10.63 chains;  
N.  $25^{\circ}14'$  W., 0.56 chain, to a point;

Thence across marsh,

S.  $73^{\circ}22'$  E., 34.50 chains;  
S.  $74^{\circ}04'$  E., 16.02 chains;  
N.  $8^{\circ}00'$  E., 5.92 chains, to a point on the west shore of Cedar Creek Cove;

Thence along west shore of said cove,

Northerly, approximately 2.50 chains, to a point;

Thence across marsh,

N.  $8^{\circ}00'$  E., 5.83 chains;  
N.  $18^{\circ}35'$  W., 4.68 chains, to a point on the southeast shore of Sylvester's Cove;

Thence along the shore of Sylvester's Cove, with the meanders thereof,

N.  $22^{\circ}39'$  E., 2.56 chains;  
N.  $82^{\circ}05'$  E., 2.44 chains;  
S.  $78^{\circ}03'$  E., 3.32 chains, to a point on the west bank at the mouth of ditch connecting said cove and Cedar Creek Cove;

Thence across said ditch,

Northeasterly, approximately 0.50 chain, to a point on the south shore of Shipps Bay;

Thence in Shipps Bay,

Northeasterly, approximately 19.00 chains, to a point on the north bank at the mouth of Kemps Creek, at Shipps Bay;

Thence along the shore of Shipps Bay with the meanders thereof,

N.  $22^{\circ}06'$  E., 5.39 chains;  
N.  $39^{\circ}34'$  E., 1.75 chains;  
N.  $60^{\circ}47'$  E., 9.07 chains;  
N.  $28^{\circ}05'$  E., 2.80 chains;  
N.  $36^{\circ}40'$  E., 3.07 chains;  
N.  $1^{\circ}27'$  E., 2.61 chains;  
N.  $12^{\circ}15'$  E., 1.74 chains;  
N.  $89^{\circ}05'$  E., 5.82 chains;

Thence in Shipps Bay,

Northeasterly, approximately 35.00 chains, to the northwestern extremity of Augers Island Bend;

Northeasterly, approximately 25.00 chains, to the most northerly point of Walkers Island Point;

Northeasterly, approximately 102.00 chains, to the most northerly point of Long Island at the mouth of Deep Creek;

Thence across Deep Creek,

Easterly, approximately 22.00 chains, to a point on the east shore at the mouth of Deep Creek at Shipps Bay;

Thence across marsh and sand flats, East, 25.22 chains, to the point of beginning.

This reservation shall be known as the Back Bay Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT  
THE WHITE HOUSE,  
June 6, 1938.

[No. 7907]  
[F. R. Doc. 38-1603; Filed, June 7, 1938;  
2:41 p.m.]

#### Rules, Regulations, Orders

#### TITLE 7—AGRICULTURE AGRICULTURAL ADJUSTMENT ADMINISTRATION

#### DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN THE TERRITORY OF HAWAII FOR THE 1937 SUGAR CROP

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the proportionate share for each farm in the Territory of Hawaii for the 1937 crop, with respect to which payment is authorized under section 302 (c) of the said act, shall be the amount of sugar, raw value, commercially recoverable from sugarcane grown on each farm and marketed (or processed by the producer) for the extraction of sugar on and after July 1, 1937.

Done at Washington, D. C. this 8th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,  
Secretary.  
[F. R. Doc. 38-1626; Filed, June 8, 1938;  
12:49 p.m.]

## BUREAU OF AGRICULTURAL ECONOMICS

## REGULATIONS TO GOVERN COTTON CLASSIFICATION AND MARKET NEWS SERVICES FOR ORGANIZED GROUPS OF PRODUCTS

By virtue of authority vested in the Secretary of Agriculture by the provisions of the Act of April 13, 1937 (Public No. 28, 75th Congress), authorizing the Secretary of Agriculture to provide for the classification of cotton, to furnish information on market supply, demand, location, condition, and market prices for cotton, and for other purposes, I. H. A. Wallace, Secretary of Agriculture do prescribe, publish, and give public notice of the following regulations to be in force and effect on and after this date and until amended or superseded by regulations hereafter made by the Secretary of Agriculture.

## REGULATION 1.—ADMINISTRATION

SECTION 1. The Chief of the Bureau of Agricultural Economics is charged with the supervision on behalf of the Secretary of Agriculture of the performance of all duties arising in the administration of the Act and these regulations.

SEC. 2. *Regional offices.*—Regional field offices shall be maintained at points designated by the Chief of the Bureau.

SEC. 3. *Field classing offices.*—The Chief of the Bureau may from time to time authorize the establishment of field cotton classing offices at other points.

## REGULATION 2.—CLASSIFICATION AND MARKET NEWS SERVICES

SECTION 1. *Classification of samples.*—The Chief of the Bureau or his authorized representatives, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with these regulations, shall, as hereinafter provided, furnish to such producers without charge the classification in accordance with the official cotton standards of the United States, of samples representing cotton produced by them. It appearing that funds appropriated for the administration of the Act may be insufficient to provide for the classification of all of the cotton grown by members of such groups, only samples representing that portion of members' cotton produced from an adopted improved variety shall be considered eligible for classification under these regulations.

SEC. 2. *Market News.*—The Chief of the Bureau shall cause to be distributed to groups of producers organized to promote the improvement of cotton who comply with these regulations, and to others on request, for posting at gins, in post offices, or other public or conspicuous places in cotton growing communities, timely information on prices for various grades and staple lengths of cotton.

## REGULATION 3.—ORGANIZED GROUPS

SECTION 1. Groups of producers organized to promote the improvement of cotton may be recognized as such within the meaning of the Act if they meet the following requirements.

(a) Such an organization may be an unincorporated association or it may be incorporated.

(b) The cotton fields of members of an organized group shall be located within the area generally recognized by the group as its community and any fields of members in which planting seed of the adopted variety and strain is produced shall be so located as to prevent or minimize cross pollination with other varieties or strains. The seed planted pursuant to the crop improvement program of any group shall be of such variety and seed stock of proven merit as shall have been agreed upon by the group, and the cotton produced shall be ginned in such a manner as to prevent the mixing of the seed or lint of an adopted variety with the seed or lint of other varieties or strains. Provision shall be made by the group for the procurement, production and economical distribution of approved planting seed of the adopted variety and strain for use by members of the group.

(c) Each organized group shall assume responsibility for obtaining, identifying, and shipping samples to be classified and for posting market information furnished to it in accordance with these regulations; shall see that samples are drawn, handled, and shipped in accordance with instructions furnished from time to time by representatives of the Bureau; and shall designate a responsible representative and an alternate representative to act for members of the group in matters pertaining to compliance with these regulations. Such representative or alternate representative need not be a producer or a member of the group.

## REGULATION 4.—SAMPLING AND CLASSIFICATION

SECTION 1. A sample of approximately 6 ounces in weight representative of both sides of each square bale of cotton (of an adopted variety) ginned for a member of an organized group will be drawn and submitted for classification. For each round bale a representative sample of approximately 3 ounces will be submitted.

SEC. 2. Each lot of samples submitted for classification shall be enclosed in packages or bags which shall be labeled or marked so as to show the name and address of the representative or sampling agency of the organized group. Each sample shall contain a tag bearing the identification of the bale from which it was drawn and the name and address of the producer of such bale.

SEC. 3. Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be without expense to

the Government except that tags and containers for the shipment of samples may be furnished and transportation charges paid by the Bureau. The samples shall become the property of the Government.

SEC. 4. Samples submitted as herein provided shall be classified by representatives of the Bureau and a statement showing the grade and staple length of each sample according to the official cotton standards of the United States will be mailed to the producer whose name appears on the tag accompanying the sample.

SEC. 5. The representative or alternative representative of a group may be designated by the group to receive classification data for its members.

## REGULATION 5.—APPLICATIONS

SECTION 1. Applications shall be made on forms furnished or approved by the Bureau.

SEC. 2. Each such application shall include (a) the date; (b) the name and location of the organized group; (c) the name, address, acreage, and estimated production of each member of the group and the variety of the cotton to be grown by him; (d) a statement that the variety and strain adopted by the group has been agreed upon by a majority of the members; (e) a statement that the group is organized for the purpose of promoting the improvement of cotton; (f) copies of the organization papers of the group, such as articles of association and by-laws, and copies of ginnery agreements, and other documents relating to cotton improvement by members of the group; (g) the name, title and post office address of the representative and the alternative representative designated to act for the group; (h) the estimated total number of acres of cotton of an adopted variety to be grown during the year; (i) the arrangements that have been made for posting market information; (j) the arrangements for procuring and distributing planting seed; (k) other information that may be required by the Bureau; (l) a statement that the group agrees to comply with the Act and these regulations; and (m) the signature of an authorized official or leader of the group.

It shall be further required that a statement be furnished from the cooperating state extension service or other state agency cooperating with the Bureau of Plant Industry of the United States Department of Agriculture, and subject to approval by representatives of that Bureau, or from a committee appointed by the Chief of the Bureau of Agricultural Economics for the purpose, that the group is organized for promoting the improvement of cotton; that all members' fields on which seed stocks are to be produced are so located as to prevent or minimize cross pollination; that the varieties of cotton and seed stocks are approved by such cooperating state

agency or committee; that arrangements have been made for ginning the cotton in a manner which will prevent or minimize damage to the fiber and prevent the mixing of the seed or lint of one variety or strain with seed or lint of other varieties or strains; and that satisfactory arrangements have been made for procuring and/or distributing planting seed.

Sec. 3. Application shall be filed with an authorized representative of the Bureau of Agricultural Economics or mailed to such representative within a period of time to be announced by that Bureau for the receipt of applications for services during the year to which such application relates. To receive consideration, any such application submitted by mail shall have been postmarked before midnight of the last day of such announced period.

Sec. 4. Applications may be rejected for non-compliance with the act or these regulations, or when funds or facilities are not available to provide the services requested.

Sec. 5. Proof of authority of any person to make application on behalf of an organized group may be required.

Sec. 6. An organized group may withdraw its application at any time.

Sec. 7. Applications shall be subject to renewal from year to year in accordance with a procedure to be prescribed by the Chief of the Bureau or his representatives.

Sec. 8. Any expense involved in the preparation and filing of applications and requests for renewal shall be paid by the applicants.

#### REGULATION 6.—LIMITATION OF SERVICES

SECTION 1. The Chief of the Bureau or his authorized representatives may suspend, terminate, or withhold cotton classing and market news services to any organized group upon its request or upon its failure to comply with the Act or these regulations, or when funds or facilities are insufficient to provide or continue such services.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 7th day of June 1938.

[SEAL]

H. A. WALLACE,  
Secretary.

[F. R. Doc. 38-1628; Filed, June 8, 1938;  
12:49 p. m.]

#### PUBLIC NOTICE ESTABLISHING RULES AND REGULATIONS TO GOVERN THE INSPECTION, SAMPLING, AND CERTIFICATION OF COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending

June 30, 1938, \* \* \* and for other purposes" (Public No. 173, 75th Congress), I, H. A. Wallace, Secretary of Agriculture, do hereby fix, establish, and promulgate the following rules and regulations to govern the inspection, sampling, and certification of cottonseed sold or offered for sale for crushing purposes, the same to be in force and effect as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority. These rules and regulations shall supersede the rules and regulations governing the inspection, sampling, and certification of cottonseed promulgated by the Acting Secretary of Agriculture on July 30, 1937.

#### REGULATION 1.—DEFINITIONS

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice-versa, as the case may demand.

Sec. 2. As used throughout these regulations, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

PARAGRAPH 1. *The act.*—The Act of Congress entitled "An Act making appropriations for the Department of Agriculture \* \* \* for the fiscal year ending June 30, 1938, " Public No. 173, 75th Congress, which makes provision "for enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, \* \* \* and other perishable farm products \* \* \* under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

PAR. 2. *Custodian.*—Person who has possession or control of cottonseed or of samples of cottonseed, as agent, controller, broker, or factor, as the case may be.

PAR. 3. *Owner.*—Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

PAR. 4. *Bureau.*—Bureau of Agricultural Economics of the United States Department of Agriculture.

PAR. 5. *Official cottonseed standards.*—The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

PAR. 6. *Supervisor of cottonseed inspection.*—An officer of the Department of Agriculture designated as such by the Chief of the Bureau.

PAR. 7. *Secretary.*—The Secretary of Agriculture of the United States.

PAR. 8. *The Chief of the Bureau.*—The Chief of the Bureau of Agricultural Eco-

nomics, United States Department of Agriculture.

PAR. 9. *Regulations.*—Regulations made under the act by the Secretary.

PAR. 10. *License.*—A license issued under the act by the Secretary.

PAR. 11. *Licensed cottonseed chemist.*—A person licensed under the act by the Secretary to make quantitative and qualitative chemical analyses of samples of cottonseed according to the methods prescribed by the Chief of the Bureau and to certificate the grade according to the official cottonseed standards of the United States.

PAR. 12. *Licensed cottonseed sampler.*—A person licensed by the Secretary to draw and to certificate the authenticity of samples of cottonseed in accordance with these regulations.

PAR. 13. *Dispute.*—A disagreement as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

PAR. 14. *Party.*—A party to a dispute.

PAR. 15. *Commercial laboratory.*—A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

PAR. 16. *Cottonseed.*—The word "cottonseed" as used herein means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

PAR. 17. *Lot.*—That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Chief of the Bureau for the drawing and preparation of official samples by licensed cottonseed samplers.

PAR. 18. *Official sample.*—A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with these regulations.

#### REGULATION 2.—ADMINISTRATIVE AND GENERAL

SECTION 1. The Chief of the Bureau is charged with the supervision on behalf of the United States Department of Agriculture of the performance of all duties arising in the administration of the act.

Sec. 2. The Chief of the Bureau, whenever he deems necessary, may designate an officer of the Department of Agriculture as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and these regulations.

Sec. 3. The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall

be performed as prescribed in methods approved from time to time by the Chief of the Bureau.

SEC. 4. Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: Provided, That in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval or acquiescence of the general management.

SEC. 5. *Misrepresentation.*—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the Act and these regulations or the issuance or use of a certificate not issued by a person licensed under these regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

SEC. 6. In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to the designated agent of the Chief of the Bureau within one week after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to the agent of the Chief of the Bureau the retained portion of the original sample together with such records as may be required, for the determination of the true grade. Should the grade found on re-analysis differ from the original by not more than plus or minus one full grade, the original grade shall be considered as the true grade. Should the re-analysis indicate a grade differing more than plus or minus one full grade from the original, all work sheets involved shall be submitted to the Chief of the Bureau or his designated agent who shall determine the correct grade.

SEC. 7. In cases of review of the grade of any official sample of cottonseed, payment covering the costs of re-analysis shall accompany the application.

#### REGULATION 3.—LICENSED COTTONSEED CHEMISTS

SECTION 1. PARAGRAPH 1. Application for licenses to analyze and grade cottonseed shall be made to the Chief of the Bureau on forms authorized for the purpose by the Bureau.

PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by satisfactory evidence (a) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (b) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (c) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (d) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (e) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (f) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (g) such other information as the Chief of the Bureau may deem necessary.

PAR. 3. Every chemist licensed hereunder to analyze cottonseed and to certificate the grade thereof shall follow precisely the methods of analysis approved from time to time by the Chief of the Bureau.

PAR. 4. The applicant shall furnish such additional information as the Secretary or the Chief of the Bureau shall at any time find to be necessary to the consideration of his application.

SEC. 2. Each applicant for a license as a chemist and each licensed chemist shall, when requested, submit to an examination or test to show his ability to analyze and grade cottonseed.

SEC. 3. The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

SEC. 4. It shall be a condition of the licensing of any person under this regulation, and of the retention by him of

a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

SEC. 5. Whenever any chemist licensed under the act and in accordance with these regulations shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, nondiscriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Bureau. The schedule shall include the certificate fee provided for in Section 3 of Regulation 5, of these Regulations.

SEC. 6. Each licensed chemist, shall keep, or shall cause to be kept for him, for a period of at least 1 year, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any officer or agent of the Bureau, authorized by the Chief of the Bureau for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations.

SEC. 7. (a) Each official sample of cottonseed as received by a licensed chemist shall be assigned a laboratory number and shall be analyzed and the grade certificated in the order of its receipt.

(b) Certificates of the grade of lots of cottonseed may be issued only upon samples certified by licensed samplers as official samples and received in good condition by licensed chemists, or known by such licensed chemists to be true and correct samples of the cottonseed involved.

(c) Certificates of the grade of unofficial samples of cottonseed may be issued upon samples received by licensed chemists if the samples are sufficient for proper analysis, have not been drawn by a licensed sampler, and are not known to be samples of the same seed represented by an official sample. Such certificates shall be plainly marked "Sample not official; grade applies to the sample only."

(d) No certificate of the grade of a sample of cottonseed shall be issued by a licensed chemist based on a sample the condition of which on receipt at the laboratory does not comply with the methods prescribed for the preparation and forwarding of samples of cottonseed.

SEC. 8. Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by

the Chief of the Bureau and shall embody within its written or printed terms—

(a) The caption "Cottonseed Grade Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement that the certificate is issued by a chemist licensed by the Secretary of Agriculture to analyze and certificate the grade of cottonseed.

(e) A statement in accordance with the facts in each case, either (1) that the chemist knows the samples upon which his classification is based to be true and correct samples of the cottonseed involved; or (2) that the samples were received in proper condition from a sampler licensed by the Secretary; or (3) that the samples were not received from a licensed sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken.

(g) All analytical data required by the Chief of the Bureau.

(h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or these regulations.

Four copies of the grade certificate form shall be submitted to and approved by the Bureau before use by a licensed chemist.

A copy of each certificate shall be mailed to a designated office of the Bureau within 36 hours after its issuance.

SEC. 9. Each licensed chemist shall from time to time when requested by the Bureau, make reports on forms furnished for the purpose by the Bureau bearing upon his activities as such licensed chemist.

SEC. 10. Every person licensed under the act shall immediately furnish the Chief of the Bureau any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

SEC. 11. Upon written request and a satisfactory statement of reasons therefor submitted by the licensed chemist, the Chief of the Bureau may, without a hearing, suspend or revoke the license issued to such licensed chemist. Pending investigation the Secretary or the Chief of the Bureau may, whenever he deems necessary, suspend the license of a licensed chemist temporarily without hearing. The Secretary may, after opportunity for hearing, when requested, has been afforded in accordance with this section, suspend or revoke a license issued to a licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes,

or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. Before the license of any licensed chemist is finally suspended or revoked, such licensed chemist shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, in which event an oral hearing shall be accorded him. Such hearing shall be held before and at the time and place fixed by the Secretary or the Chief of the Bureau or an official of the Department of Agriculture designated for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty which is relevant to the issues involved in the hearing, shall be admissible as *prima facie* evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

SEC. 12. If a license issued to a licensed chemist is suspended, revoked, or cancelled, such license shall be returned to the Bureau. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or cancelled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

SEC. 13. Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number, in the discretion of the Secretary.

SEC. 14. No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncancelled license issued under the act.

SEC. 15. Every person licensed under the act as a licensed chemist shall keep confidential all information secured by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in

question, or to an authorized agent of the Chief of the Bureau.

#### REGULATION 4.—LICENSED COTTONSEED SAMPLERS

SECTION 1. PARAGRAPH 1. Applications for licenses to sample cottonseed shall be made to the Chief of the Bureau of Agricultural Economics on forms furnished for the purpose by him.

PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation, administered by a duly authorized officer, and shall contain or be accompanied by (a) satisfactory evidence that he has passed his twenty-first birthday and that he is an actual resident of the continental United States, (b) satisfactory evidence of his experience in the handling and sampling of cottonseed, (c) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him, and with instructions issued from time to time by the Chief of the Bureau governing the sampling of cottonseed, and (d) such other information as the Chief of the Bureau may deem necessary.

PAR. 3. Every sampler shall include in his application to the Chief of the Bureau for a license a statement showing the fees, wages, or salary to be received by him as compensation for his work as a sampler of cottonseed.

SEC. 2. PARAGRAPH 1. Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Chief of the Bureau a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and these regulations. Said bond shall be in such form and amount, not less than \$1,000, and shall have such surety or sureties as shall be approved by the Chief of the Bureau, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

PAR. 2. If the Chief of the Bureau finds that conditions warrant such action, there shall be added to the amount previously required under paragraph 1 of this section such additional amount as he shall deem necessary.

SEC. 3. The period for which a license may be issued under this regulation shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year, provided that licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

SEC. 4. It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Chief of the Bureau or his authorized representative, provided that in the discretion of the Chief of the Bureau or his authorized representative a properly executed instrument in form approved by him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with this regulation may be filed in lieu of a new bond.

SEC. 5. No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of this regulation until it has been approved by the Chief of the Bureau or his authorized representative.

SEC. 6. Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Bureau, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Bureau any information requested at any time in regard to his sampling of cottonseed.

SEC. 7. Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Bureau.

SEC. 8. Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

SEC. 9. Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemist, and with tags and samplers' certificates approved or furnished by the Chief of the Bureau or his representative for identifying the samples of cottonseed and for certificating the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificate (a) the number thereof; (b) a suitable caption; (c) the location of the cottonseed involved and its point of origin; (d) the identification of the lot from which the sample was drawn; (e) the date on which the sample was drawn; (f) the gross weight of the original sample, and the net weight of the cleaned sample; (g) a statement indicating that the sample was drawn in accordance with these regulations, as amended; and (h) the signature of the licensee.

licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Bureau.

SEC. 10. Each licensed cottonseed sampler shall draw, prepare and identify one official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Chief of the Bureau, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been analyzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.

SEC. 11. Each licensed sampler shall permit any authorized representative of the Bureau to inspect at any time his books, papers, records, and accounts relating to the performance of his duties under this regulation.

SEC. 12. The failure or refusal of any cottonseed sampler, duly licensed as such under these regulations, to draw, prepare, identify and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license.

SEC. 13. Pending final action by the Secretary, a sampler's license may be suspended by the Chief of the Bureau or by any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within 10 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

SEC. 14. In case a license issued to a sampler is suspended or revoked such license shall be returned to the Department. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in section 7 of this regulation.

SEC. 15. Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

SEC. 16. Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Bureau bearing upon his activity as such licensee.

SEC. 17. No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

SEC. 18. Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Bureau.

#### REGULATION 5.—FEES AND COSTS

SECTION 1. For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be \$5.00, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be \$3.00.

SEC. 2. For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be \$50.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be \$30.00.

SEC. 3. To cover in part the cost of administering these regulations each licensed cottonseed chemist shall pay to the Bureau 25 cents for each certificate of the grade of cottonseed issued by him. A statement showing the number of certificates issued shall be rendered to the Bureau each month, the same to be accompanied by the appropriate remittance in the form of a certified check, draft, or money order payable to the Treasurer of the United States.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 7th day of June, 1938.

[SEAL]

H. A. WALLACE,  
Secretary.

[F. R. Doc. 38-1627; Filed, June 8, 1938;  
12:48 p. m.]

#### FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1]

#### AMENDMENTS TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

The regulations relating to wheat crop insurance adopted by the Board of Directors on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938,<sup>1</sup> are hereby amended as follows:

1. Section 61 is hereby amended to read as follows:

SEC. 61. *Payment of premium in wheat.*—(a) When premiums are paid in wheat such payments shall be made by the delivery of a negotiable warehouse receipt representing the quantity, class, and grade of wheat specified in the

<sup>1</sup> 3 F. R. 1013 (DI).

premium notice. Warehouse receipts shall be accepted only when issued by a warehouse designated in the premium notice. In no event shall premiums be paid with wheat of a lower grade than No. 3 or with wheat not classified as a straight or unqualified grade. No warehouse receipt will be accepted in payment of the premium unless it is delivered at the office of the county committee for the county in which the farm is located within the time fixed by the Corporation, and unless there are no warehousing charges or other liens outstanding against the wheat represented by the receipt at the time of such delivery other than the usual charges for receiving, and storage from the date of issuance of the receipt to the time of delivery. Premiums shall not be regarded as paid until the warehouse receipts used in payment of such premiums are accepted by a representative of the Corporation duly authorized for that purpose.

(b) If for any reason whatsoever it appears at any time that the transfer of the warehouse receipt to the Corporation did not convey to it complete and unencumbered title to the receipt and the wheat represented thereby, except as provided in subsection (a) of this section, or if at any time the Corporation's title to such receipt or wheat is drawn into question by any person, then, unless the stipulated premium is paid on demand by the Corporation, the policy shall at the option of the Corporation become void, and in case any payments have been made thereunder they shall be refunded to the Corporation.

2. Section 62 is hereby amended to read as follows:

SEC. 62. *Payment of premium in cash equivalent.*—Payment of premiums in cash equivalent shall be made in cash, check, money order, or bank draft. Checks and drafts will be accepted subject to collection. The cash equivalent of any premium shall be determined by multiplying the number of bushels of wheat of the basic class and grade specified in the premium notice by the basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located less an amount per bushel, fixed by the Corporation, representing freight and other usual charges in connection with the movement and handling of wheat between the local station fixed by the Corporation for the farm and the specified basic market.

3. Section 80 is hereby amended to read as follows:

SEC. 80. *Manner of Payment of indemnity.*—The indemnity under any policy for which the Corporation may be liable shall be paid in wheat or the cash equivalent thereof. The insured may indicate in his proof of loss whether he wishes the indemnity to be paid in wheat

or in cash, and if payment is to be made in wheat, the point at which he desires such wheat to be delivered, but the Corporation reserves the right to make payment in a form or at a point other than that indicated by the insured.

4. Section 81 is hereby amended to read as follows:

Sec. 81. *Payment of indemnity in cash.*—Where an indemnity is to be paid in cash, the amount thereof shall be computed by multiplying the amount of loss, in terms of wheat of the basic class and grade specified for the payment of premiums in the area where the farm is located, by the current basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located, less an amount per bushel, fixed by the Corporation, to cover freight and other usual charges in connection with the movement and handling of wheat between the local station fixed for the farm by the Corporation and the specified basic market. The current basic market price for any class or grade of wheat at any such designated basic market shall be the basic market price for such wheat for the day when ascertainment of the amount of loss is made by agreement between the insured and the adjuster, subject to the approval of the proof of loss for payment by a duly authorized officer of the Corporation.

5. Section 82 is hereby amended to read as follows:

Sec. 82. *Payment of indemnity in wheat.*—(a) Where an indemnity is to be paid in wheat, it shall be paid in the form of a negotiable warehouse receipt representing wheat of the basic class and grade specified for the payment of premiums in the area where the farm is located, or its equivalent in wheat of another class or grade (except wheat of a lower grade than No. 3, or wheat not classified as of a straight or unqualified grade) determined in accordance with conversion factors fixed by the Corporation.

(b) If the warehouse receipt represents wheat stored at the local station fixed for the farm by the Corporation, it shall be for a quantity of wheat equal to the amount of loss.

(c) If the warehouse receipt represents wheat stored at the basic market designated by the Corporation for the area in which the farm is located, it shall represent the amount of loss less an amount of wheat, fixed by the Corporation, equivalent at the current basic market price to freight and other usual charges in connection with the movement and handling between the local delivery point and the specified basic market of a quantity of wheat equal to the amount of loss.

(d) If the warehouse receipt represents wheat stored at any other point or market, it shall be for a quantity of wheat equal to a number of bushels com-

puted by dividing the amount of the indemnity that would be paid if the indemnity were to be paid in cash by the current market price for such wheat at such other point or market. The current market price at such other point or market shall be determined by deducting from the current basic market price at the designated basic market, an amount per bushel, fixed by the Corporation, to cover freight, from the point at which the wheat originated (as shown on the received freight bill which is transferred with the warehouse receipt), to the basic market, and adding thereto an amount per bushel representing the freight necessary to move such wheat from such point of origin to the point or market at which the wheat is stored.

(e) When warehouse receipts are delivered as provided in subsection (c) of this section, they shall be accompanied by evidence of the payment of sufficient inbound freight to assure the insured customary transit privileges. When warehouse receipts are delivered as provided in subsection (d) of this section, they shall be accompanied by evidence of the payment of an amount of freight equal to the amount of freight from the point of origin to the point of storage used in making the calculation under said subsection (d).

(f) The current market prices to be applied under this section 82, including the determination of the amount of indemnity in cash, shall be such prices for the day when the proof of loss is approved for payment by the Corporation.

6. Section 122 is hereby amended to read as follows:

Sec. 122. *Review of determinations of county committees.*—All determinations by county committees shall be subject to review and approval or revision by duly authorized representatives of the Corporation.

Adopted by the Board of Directors on May 27, 1938.

[SEAL]

R. M. EVANS,  
Acting Chairman.

Approved, June 8, 1938.

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-1625: Filed, June 8, 1938;  
12:48 p. m.]

## TITLE 16—COMPETITIVE PRACTICES

### FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2925]

IN THE MATTER OF THE TAREX COMPANY, A  
CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard<sup>1</sup> by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vicini, an Examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed by counsel for the Commission (respondent having filed no brief and not having requested oral argument); and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

*It is ordered*, That the respondent, The Tarex Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of pharmaceutical preparations for the treatment and cure of eczema, psoriasis and other diseases and ailments of the skin, now designated as "Tarex No. 1," "Tarex No. 2," and "Tarex No. 3" or any other preparations containing substantially similar ingredients or possessing substantially similar properties, whether sold under those names or under any other names, in commerce as defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or indirectly, in any manner:

(a) That said preparations constitute competent and effective treatments for eczema and psoriasis in any form, or for all the known marks of skin ailments, such as lesions, pimples, blisters, scales, scabs, cuts, fissures, redness, wetness or dryness, or any other forms or marks of skin diseases or skin ailments, unless such representations are limited to representations that said preparations will serve as palliatives or temporarily alleviate those types of said diseases and disorders which are not caused by, or associated with, a systemic or metabolic disorder, or are not caused by syphilis;

(b) That said preparations constitute competent and effective remedies and cures for eczema and psoriasis in any form, or for all the known marks of skin ailments, such as lesions, pimples, blisters, scales, scabs, cuts, fissures, redness, wetness or dryness, or any other forms or marks of skin diseases or skin ailments.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and

form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1614; Filed, June 8, 1938;  
10:23 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3012]

IN THE MATTER OF MARVO BEAUTY LABORATORIES, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard<sup>1</sup> by the Federal Trade Commission upon the complaint of the Commission and the answer thereto and the stipulation as to the facts entered into between W. T. Kelley, Chief Counsel of the Commission, and John A. Bolles, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

*It is ordered*, That the respondent, Marvo Beauty Laboratories, Inc., its representatives, agents and employees, in connection with the offering for sale, sale and distribution of toilet preparations now designated as "Marvo Liquid Skin Peel," "Marvo Skin Peel" and "Marvo" or any other toilet products containing substantially the same ingredients or possessing the same properties sold under these names or any other name in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

That the respondent's product is a new, harmless product; that it will remove blemishes and signs of age visible in the epidermis or outer layer of the skin, including pimples, blackheads, acne, pustules, whiteheads, freckles, tan, coarse pores, dry skin scales, oily skin, blotches, sallow skin, discolorations, flabbiness, simple eczema or any other condition of the skin; that it will restore clearness and beauty to the outer layer of the skin; that it will impart to the skin the magic of a new, clear, youth-like skin; that it will give a fresh outer skin on any part of the body; that it will remove ugly blemishes and renew youthful beauty; that it is recommended by physicians for quickly and harmlessly removing blemishes and signs of age

visible in the epidermis or outer layer of the skin; that it will prevent the development of horrible skin conditions or diseases; and that the product will quickly reduce enlarged pores and remove blackheads.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1615; Filed, June 8, 1938;  
10:23 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3271]

IN THE MATTER OF HARRY J. KATZ AND LOUIS BLACK, INDIVIDUALLY, AND TRADING AS THE NUTEX COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer thereto, and the stipulation as to the facts entered into between W. T. Kelley, Chief Counsel of the Commission, and Ralph S. Fowler, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

*It is ordered*, That the respondents, Harry J. Katz and Louis Black, individually, and trading as The Nutex Company, or under any other trade name, their representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of rubber prophylactics in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing, through the use of the word "manufacturers" and the phrase "mfg. by" in connection with the use of their trade name or names, or through the use of any words or terms of similar import and meaning, or through any other means or device, or in any manner, that said respondents, or either of them, are the manufacturers of the products sold by them, unless and until such respondents actually own and operate, or directly and absolutely control, a manufacturing plant wherein said products are manufactured by them.

<sup>1</sup> 2 F. R. 286, 1226 (DI).

<sup>1</sup> 2 F. R. 2291 (DI).

*It is further ordered.* That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1613; Filed, June 8, 1938;  
10:22 a. m.]

**TITLE 26—INTERNAL REVENUE  
UNITED STATES BOARD OF TAX  
APPEALS**

**AMENDMENT TO RULES OF PRACTICE BEFORE  
THE UNITED STATES BOARD OF TAX AP-  
PEALS REVISED TO JANUARY 1, 1938**

Authority: Rules of Practice and Procedure prescribed pursuant to the authority of section 907 (a) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105), as amended by section 601 of the Revenue Act of 1928 (45 Stat. 791, 871). Section 909 (a) (2) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105).

**AMENDMENT TO RULE 61**

*Computation of Time—Sundays and  
Holidays*

Armistice Day, November 11 (Act of May 13, 1938, 52 Stat. 351.)

NOTE.—Insert between Labor Day and Thanksgiving.

[SEAL] EUGENE BLACK,  
Chairman.

JUNE 7, 1938.

[F. R. Doc. 38-1612; Filed, June 8, 1938;  
10:21 a. m.]

**TITLE 43—PUBLIC LANDS  
GENERAL LAND OFFICE**

[Circular No. 1436 (a)]

**AMENDMENT OF REGULATIONS GOVERNING  
EXCHANGES OF STATE LANDS UNDER SEC-  
TION 8 OF THE TAYLOR GRAZING ACT**

1. *Amendment.*—In order to provide that both original and duplicate copies of State exchange applications filed under section 8 of the Taylor Grazing Act, as amended, shall be forwarded by the Registers of the district land offices, to the General Land Office, paragraphs 2 and 3 of Circular No. 1398, approved July 22, 1936,<sup>1</sup> as amended by Circular No. 1436, approved September 16, 1937, hereby are amended further to read as follows:

2. *Action by the Register.*—If the application for exchange appears regular and

in conformity with the law and these regulations, the register will assign the current serial number thereto, and, after making appropriate notations upon his records, will transmit the original and duplicate copies of the application to the General Land Office, together with a report as to any conflicts of record, transmitting the triplicate copy of each application to the proper Special Agent in Charge, Division of Investigations, together with a carbon copy of his report as to conflicts of record.

An application for exchange will be noted "suspended" by the register and unless disallowed, the lands applied for in exchange will be segregated upon the records of the district land office and General Land Office, and will not be subject to other appropriation, application, selection, or filing.

Circular No. 1384, approved April 15, 1936, is hereby revoked in so far as it pertains to exchanges by a State under section 8 of the Grazing Act, as amended.

3. *Action of the General Land Office.*—If the selected lands are within a grazing district, all else being regular, the Commissioner of the General Land Office will transmit the duplicate copy of the application to the Director of Grazing with a request for a report as to whether, in his opinion, the selected lands are so located as not to interfere with the administration or value of the remaining lands in the district for grazing purposes, within the meaning of the Act.

When an exchange is based upon equal values, upon receipt of a favorable report from the Director of Grazing (where the selected lands are within a grazing district), all else being regular, the Commissioner of the General Land Office will request the Director of Investigations to have a field investigation made for the purpose of determining the values of the offered and selected lands; whether the selected lands are occupied, improved, cultivated, or claimed by anyone adversely to the State; whether the selected lands contain minerals, timber, springs, water holes, hot or medicinal springs, or any special features which should be considered in acting on the application; and whether the reservation which the State desires to make in the offered lands, if any, together with the contemplated use of such reservation, will in any way affect adversely the administration of the grazing district, if the offered lands are within a grazing district. The field examination should be made as soon as possible, and report and special recommendation should be submitted to the General Land Office.

When an exchange is based upon equal areas, if a field examination is found necessary to determine the character of the selected lands as to mineral or springs or water holes, the Director of Investigations will be requested to

have a field investigation made for either or both of such purposes.

FRED W. JOHNSON,  
Commissioner.

Approved, May 23, 1938.

OSCAR L. CHAPMAN,  
Assistant Secretary.

[F. R. Doc. 38-1611; Filed, June 8, 1938;  
9:41 a. m.]

**Notices**

**DEPARTMENT OF THE INTERIOR.**

National Bituminous Coal Commis-  
sion.

[Docket No. 16]

**IN THE MATTER OF THE PETITION AND  
MOTION OF CHESTERFIELD COAL COM-  
PANY, HI-HEAT COAL COMPANY, INDE-  
PENDENT COAL & COKE COMPANY, LIB-  
ERTY FUEL COMPANY, MACLEAN COAL  
COMPANY, NATIONAL COAL COMPANY,  
PEERLESS SALES COMPANY, ROYAL COAL  
COMPANY, SPRING CANYON COAL COM-  
PANY, STANDARD COAL COMPANY, SWEET  
COAL COMPANY, UTAH FUEL COMPANY,  
UNITED STATES FUEL COMPANY**

**NOTICE OF AND ORDER FOR HEARING**

The petitioners above named, having on the 31st day of May, 1938, petitioned this Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers. Notice is *Hereby Given* that the above entitled proceeding is assigned for hearing before the Commission on June 15, 1938, at 10:00 o'clock a. m. at the Hearing Room of the Commission, at the Shirley-Savoy Hotel, Denver, Colorado, at which time an opportunity will be afforded interested parties to be heard.

The Secretary of the Commission is, forthwith, directed to mail a copy of this Notice of Hearing to the petitioners above named, to each code member in Districts Nos. 16, 17, 18, 19, 20, 22 and 23, and to the Consumers' Counsel, and shall cause a copy to be published in the **FEDERAL REGISTER**. A copy of the aforesaid petition is on file and available to interested parties for inspection at the Office of the Secretary of the Commission.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-1618; Filed, June 8, 1938;  
11:38 a. m.]

[Docket 23-FD]

## ORDER IN THE MATTER OF THE APPLICATION OF AMERICAN ZINC AND CHEMICAL COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

*It appearing,* That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, American Zinc and Chemical Company, a corporation, on the 10th day of July, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it or produced and transported to itself for consumption by it, in its operations as a zinc and chemical plant, which application was filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its order referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 16th day of August, 1937; and

*It further appearing,* That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 16th day of August, 1937, on which day said hearing was duly continued to the 8th day of September, 1937; that on said 8th day of September, 1937, said cause came on to be heard pursuant to said orders of the Commission; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

*Now, therefore,* It is hereby ordered:

1. That the application of American Zinc and Chemical Company, a corporation, is hereby granted to the extent that the bituminous coal produced at its mine at Langeloth, Washington County, Pennsylvania, is consumed by applicant in the operation of its plant at Langeloth, Washington County, Pennsylvania, which production is within the purview of subsection (1) of section 4 of the Bituminous Coal Act of 1937, and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By order of the Commission.  
Dated this 6th day of June, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-1619; Filed, June 8, 1938;  
11:38 a. m.]

[Docket No. 24-FD]

## ORDER IN THE MATTER OF THE APPLICATION OF THE McLAIN FIRE BRICK COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

*It appearing,* That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, The McLain Fire Brick Company, a corporation, on the 28th day of July, 1937, filed with the Commission its application for exemption, seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, all bituminous coal produced by and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of fire brick, which application was filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

The Commission, being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

*Now, therefore,* It is hereby ordered:

1. That the application of the McLain Fire Brick Company, a corporation, is hereby granted to the extent that the bituminous coal produced at its mine in the State of Ohio, near one of the plants of the applicant, known as "Irondale Works," is consumed by applicant in the operation of its plants in the State of Ohio, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937, and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By Order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-1620; Filed, June 8, 1938;  
11:39 a. m.]

[Docket No. 32-FD]

## ORDER IN THE MATTER OF THE APPLICATION OF HARRISON-WALKER REFRactories COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C. on the 6th day of June, 1938.

*It appearing,* That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes"

*It further appearing,* That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said

(Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Harbison-Walker Refractories Company, a corporation, on the 7th day of July, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it, or produced and transported to itself for consumption by it, in its operation as a fire brick plant, which application was filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act, and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its orders, referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 11th day of August, 1937; and

*It further appearing*, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 11th day of August, 1937; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which report were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service and no exceptions to this said report having been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner, are in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

*Now, therefore*, It is hereby ordered:

That the application of Harbison-Walker Refractories Company, a corporation, is hereby granted to the extent that the bituminous coal produced by it at its five mines located in Dean, Cambria County, Pennsylvania; Templeton, Armstrong County, Pennsylvania; Croft, Clearfield County, Pennsylvania; Surveyor, Clearfield County, Pennsylvania; and Retort, Center County, Pennsylvania, is consumed by applicant in the operation of its fire brick plants, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937, and therefore is exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to de-

termine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-1621; Filed, June 8, 1938;  
11:39 a. m.]

[Docket No. 37-FD]

ORDER IN THE MATTER OF THE APPLICATION  
OF THE CONSOLIDATED INDIANA COAL  
COMPANY FOR EXEMPTION UNDER THE  
BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 6th day of June, 1938.

*It appearing*, That on the 2nd day of July, 1937, the above named applicant, Consolidated Indiana Coal Company, filed an application for exemption from the provisions of Section 4 and the first paragraph of Section 4-A of the Bituminous Coal Act of 1937, in which application it was claimed that the coal produced by the applicant and consumed by the Bankruptcy Trustees of the Chicago, Rock Island & Pacific Railway Company was exempt from the provisions of the Bituminous Coal Act of 1937 by virtue of Section 4, Part II (1) thereof, and for the further reason that the transactions in bituminous coal in intrastate commerce do not directly affect interstate commerce in coal. The Commission, by Order of Assignment dated August 11, 1937, assigned the cause to an examiner for a hearing on August 19, 1937, at the Hearing Room of the Commission in the Washington Hotel, Washington, D. C., which hearing was continued until September 15, 1937 upon the motion of the applicant.

*It further appearing*, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard before the examiner; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. On the 14th day of May, 1937, within the period described for the filing of Exceptions and Brief, as provided by the Rules of Practice and Procedure, the applicant filed with the Commission Exceptions to the Report of the examiner and Brief in support thereof. The Commission, upon due consideration of the said Exceptions, overruled the Exceptions for the reason stated in an opinion filed herein dated the 1st day of June 1938, which is hereby referred to and made part hereof; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcript of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusions submitted by the examiner are in all respects true and correct, and the same are hereby adopted as the findings of fact and conclusions of the Commission:

*Now, therefore*, It is hereby ordered:

1. That the bituminous coal produced by the applicant and consumed by the Bankruptcy Trustees of the Chicago, Rock Island & Pacific Railway Company does not come within the scope of Section 4, Part II (1) of the Act and, accordingly, cannot be for such reason exempted from the provisions of Section 4 of the Act; that the application for exemption, insofar as the same is based on the exemption provisions of Section 4, Part II (1) of the Act, be and the same is hereby denied.

2. That the application for exemption, having been filed prior to the entry of the order subjecting intrastate transactions within the State of Iowa, where the applicant's coal is produced, to the provisions of Section 4 of the Act, insofar as such application is based on the ground that the transactions of the applicant in intrastate commerce in coal do not directly affect interstate commerce in coal, be and the same is hereby dismissed as premature, without prejudice.

By order of the Commission.

Dated this 8th day of June 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-1622; Filed, June 8, 1938;  
11:39 a. m.]

[Docket No. 45-FD]

ORDER IN THE MATTER OF THE APPLICATION  
OF THE BIRMINGHAM WATER WORKS  
COMPANY, A CORPORATION, FOR EXEMPTION  
UNDER THE BITUMINOUS COAL ACT  
OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 6th day of June, 1938.

*It appearing*, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, The Birmingham Water Works Company, a corporation, on the 14th day of June, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it or produced and transported to itself for consumption by

it in its operations in supplying water for domestic and industrial use to the City of Birmingham, Alabama, and adjacent territory thereto within the State of Alabama, which application was filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission, by its orders, referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 26th day of August, 1937; and

*It further appearing*, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on the 26th day of August, 1937; that said hearing was duly continued from time to time until the 22nd day of October, 1937; that on said 22nd day of October, 1937, said cause came on to be heard pursuant to said orders of the Commission and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission:

*Now, therefore*, It is hereby ordered:

That the application of The Birmingham Water Works Company, a corporation, is hereby granted to the extent that the bituminous coal produced by it at its mine known as the Cahaba Mine, Jefferson County, Alabama, is consumed by applicant in its operations in supplying water for domestic and industrial use to the City of Birmingham, Alabama, and territory adjacent thereto within the State of Alabama, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937, and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the

Commission to support this order of exemption continue to exist.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER McCULLOUGH,

Secretary.

[F. R. Doc. 38-1623; Filed, June 8, 1938;  
11:40 a. m.]

[Docket No. 47-FD]

**ORDER IN THE MATTER OF THE APPLICATION OF THE CAMBRIA CLAY PRODUCTS COMPANY A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937**

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

*It appearing*, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.) known as the Bituminous Coal Act of 1937, applicant, The Cambria Clay Products Company, a corporation, on the 20th day of July, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it or produced and transported to itself for consumption by it in its business of manufacturing clay products, which application was filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its orders referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C., on the 27th day of August, 1937; and

*It further appearing*, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 27th day of August, 1937; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which report were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the

conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

*Now, therefore*, It is hereby ordered:

That the application of the Cambria Clay Products Company, a corporation, is hereby granted to the extent that the bituminous coal produced at its mines at Lawrence County, Ohio, is consumed by applicant in its business of manufacturing clay products, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937 and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By Order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-1624; Filed, June 8, 1938;  
11:40 a. m.]

**FEDERAL TRADE COMMISSION.**

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3349]

**IN THE MATTER OF MELVIN HINER, AN INDIVIDUAL, TRADING AS CO-OPERATIVE LIBRARY COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered*, That Edward J. Hornbrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Thursday, June 23, 1938, at nine o'clock in the forenoon of that day (central standard time), at room 1123 New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1607; Filed, June 8, 1938;  
9:37 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3388]

**IN THE MATTER OF W. D. BOYCE COMPANY,  
A CORPORATION**

**ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Friday, June 24, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1606; Filed, June 8, 1938;  
9:37 a. m.]

**RURAL ELECTRIFICATION ADMINIS-  
TRATION.**

[Administrative Order No. 258]

**ALLOCATION OF FUNDS FOR LOANS**

JUNE 6, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the

projects and in the amounts as set forth in the following schedule:

Project Designation	Amount
Arkansas 8011W1 Jackson	\$10,000
Missouri 8028W1 Barton	2,500
Ohio 8083W1 Huron	5,000

JOHN M. CARMODY,  
Administrator.

[F. R. Doc. 38-1608; Filed, June 8, 1938;  
9:39 a. m.]

[Administrative Order No. 259]

**ALLOCATION OF FUNDS FOR LOANS**

JUNE 6, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	Amount
Georgia 8051A2 Newton	\$40,000
Maine 8002A2 Penobscot	21,000

JOHN M. CARMODY,  
Administrator.

[F. R. Doc. 38-1609; Filed, June 8, 1938;  
9:39 a. m.]

[Administrative Order No. 260]

**ALLOCATION OF FUNDS FOR LOANS**

JUNE 6, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	Amount
Minnesota 9035B1 Brown	\$229,000

JOHN M. CARMODY,  
Administrator.

[F. R. Doc. 38-1610; Filed, June 8, 1938;  
9:39 a. m.]

**SECURITIES AND EXCHANGE COM-  
MISSION.**

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of June, A. D. 1938.

[File No. 32-93]

**IN THE MATTER OF NEW YORK STATE  
ELECTRIC & GAS CORPORATION**

**NOTICE AND ORDER FOR HEARING**

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed

with this Commission by the above-named party:

*It is ordered*, That a hearing on such matter be held on June 27, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW, Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

*It is further ordered*, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 22, 1938.

The matter concerned herewith is in regard to an application by New York State Electric & Gas Corporation, a subsidiary of NY PA NJ Utilities Company, a registered holding company, pursuant to Section 6 (b) for exemption from the provisions of Section 6 (a) of the issue and sale to consumers, under a customers finance plan for the construction of rural electric line extension, of \$75,000 principal amount of 6% Customers Receipts against a like amount of advances made or to be made by the customers. It is stated that the proceeds are to be applied exclusively to the construction of rural electric line extensions for the consumers who have made or are to make the advances. The issue and sale of The Customers Receipts were approved by The Public Service Commission of the State of New York by its order of May 24, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-1630; Filed, June 8, 1938;  
12:53 p. m.]

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 4th day of June, 1938.

[File No. 7-108]

**IN THE MATTER OF APPLICATION OF THE  
LOS ANGELES STOCK EXCHANGE TO EX-  
TEND UNLISTED TRADING PRIVILEGES TO  
CURTISS WRIGHT CORPORATION CLASS A  
STOCK, \$1 PAR VALUE**

**ORDER MAKING SUPPLEMENTAL APPLICATION  
PART OF THE RECORD**

The Los Angeles Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, to extend unlisted trading privileges to the above-mentioned security; and

After appropriate notice, a hearing having been held in this matter in Washington, D. C.; and

The Commission having made and filed its Findings and Opinion in this proceeding in which it reserved decision with respect to the above-mentioned application for a reasonable period of time within which the applicant might obtain and submit further evidence; and

Said applicant having submitted such further evidence in the form of a supplemental application dated May 10, 1938;

It is ordered, That said supplemental application be and the same is hereby made a part of the record herein.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-1629; Filed, June 8, 1938;  
12:53 p. m.]

**UNITED STATES CIVIL SERVICE  
COMMISSION.**

**CONDITION OF THE APPORTIONMENT AT  
CLOSE OF BUSINESS, TUESDAY, MAY 31,  
1938**

*Important.*—Although the apportioned classified civil service is by law located

<sup>1</sup> 3 F. R. 828 (DI).

only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
37. North Dakota.....	251	248
38. Massachusetts.....	1,566	1,557

State	Number of positions to which entitled	Number of positions occupied
37. North Dakota.....	251	248
38. Massachusetts.....	1,566	1,557

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
			QUOTA FILLED

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
			IN EXCESS

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
39. West Virginia.....	637	641	+20
40. Rhode Island.....	233	236	+9
41. Vermont.....	132	134	-2
42. Colorado.....	382	388	+17
43. Kansas.....	663	724	+41
44. Missouri.....	1,337	1,417	+58
45. South Dakota.....	255	275	+7
46. Montana.....	198	219	+20
47. Minnesota.....	945	1,047	+121
48. Iowa.....	910	1,034	+82
49. Nebraska.....	508	592	+67
50. Virginia.....	892	1,941	+94
51. Maryland.....	601	1,859	-48
52. D. C. ....	179	8,776	-203

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
			GAINS
By appointment.....			18
By reinstatement.....			7
By transfer.....			45
By correction.....			2
Total.....			73

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
			LOSSES
By separation.....			145
By transfer.....			58
Total.....			203
Total appointments.....			45,965

**NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's Opinion of August 25, 1934, 13,714.**

By direction of the Commission:

[SEAL] L. A. MOYER,  
Chief Examiner.

[F. R. Doc. 38-1616; Filed, June 8, 1938;  
11:10 a. m.]

IN ARREARS	1	2	3
1. Puerto Rico.....	569	37	
2. Hawaii.....	136	15	
3. Alaska.....	22	7	
4. California.....	2,062	729	
5. Texas.....	2,146	846	
6. Louisiana.....	774	353	
7. Michigan.....	1,784	837	
8. Arizona.....	160	77	
9. New Jersey.....	1,489	759	
10. South Carolina.....	641	364	
11. Oklahoma.....	883	514	
12. Ohio.....	2,449	1,459	
13. Mississippi.....	741	451	
14. Arkansas.....	683	416	
15. Alabama.....	975	604	
16. New Mexico.....	156	98	
17. North Carolina.....	1,168	762	
18. Georgia.....	1,072	719	
19. Kentucky.....	963	663	
20. Wisconsin.....	1,083	816	
21. Tennessee.....	964	734	
22. Illinois.....	2,812	2,144	
23. Nevada.....	34	26	
24. Connecticut.....	592	461	
25. Oregon.....	351	313	
26. Delaware.....	88	79	
27. Florida.....	541	490	
28. Indiana.....	1,193	1,084	
29. New York.....	4,638	4,304	
30. Utah.....	187	174	
31. Pennsylvania.....	3,549	3,303	
32. Wyoming.....	83	78	
33. Washington.....	576	545	
34. New Hampshire.....	171	165	
35. Idaho.....	164	160	
36. Maine.....	294	289	